

2SHB 1458 - H AMD 417

By Representative Orwall

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 70.155.005 and 1993 c 507 s 1 are each amended to
4 read as follows:

5 (1) The legislature finds that chapter ..., Laws of 2015 (this
6 act) furthers the public health, safety, and welfare by reducing
7 youth access to addictive and harmful products.

8 (2) While present state law prohibits the sale and distribution
9 of tobacco and vapor products to ((minors)) youth under the age of
10 eighteen, youth obtain ((tobacco)) these products with ease.
11 ((Availability and lack of enforcement put tobacco products in the
12 hands of youth.))

13 (3) Almost all adults who smoke started smoking when they were
14 teenagers. At the same time, according to the 2012 healthy youth
15 survey, forty-six percent of tenth graders say it is "sort of easy"
16 to "very easy" to get cigarettes. Of these tenth graders who smoked,
17 more than twice as many said they got their cigarettes from social
18 sources, not from a store or vending machine.

19 (4) The early adult years are a critical period in which more
20 than a quarter of those using tobacco move from experimentation to
21 daily use. The legislature recognizes academic research projecting
22 that raising the legal smoking age could cut the youth smoking rate
23 in half within seven years.

24 (5) The legislature finds that reducing the youth smoking rate
25 will save lives and reduce health care costs. Every year, two
26 billion eight hundred ten million dollars in health care costs can
27 be directly attributed to tobacco use in Washington. Smoking-caused

1 government expenditures cost every Washington household six hundred
2 twenty-five dollars per year.

3 (6) Federal law requires states to enforce laws prohibiting sale
4 and distribution of tobacco products to minors in a manner that can
5 reasonably be expected to reduce the extent to which the products
6 are available to minors. It is imperative to effectively reduce the
7 sale, distribution, and availability of tobacco products to minors.

8

9 **Sec. 2.** RCW 26.28.080 and 2013 c 47 s 1 are each amended to
10 read as follows:

11 (1) (~~Every~~) A person who sells or gives, or permits to be sold
12 or given, to (~~any~~) a person under the age of (~~eighteen~~) nineteen
13 years any cigar, cigarette, cigarette paper or wrapper, tobacco in
14 any form, or a vapor product is guilty of a gross misdemeanor.

15 (2) It shall be no defense to a prosecution for a violation of
16 this section that the person acted, or was believed by the defendant
17 to act, as agent or representative of another.

18 (3) For the purposes of this section, "vapor product" means (~~a~~
19 ~~noncombustible tobacco derived product containing nicotine that~~
20 ~~employs a mechanical heating element, battery, or circuit,~~
21 ~~regardless of shape or size, that can be used to heat a liquid~~
22 ~~nicotine solution contained in cartridges. Vapor product does not~~
23 ~~include any product that is regulated by the United States food and~~
24 ~~drug administration under chapter V of the federal food, drug, and~~
25 ~~cosmetic act~~) any: (a) Device that employs a battery or other
26 mechanism to heat a solution or substance to produce a vapor or
27 aerosol intended for inhalation; (b) cartridge or container of a
28 solution or substance intended to be used with or in such a device;
29 or (c) solution or substance intended for use in such a device,
30 including, but not limited to, concentrated nicotine. "Vapor
31 product" includes any electronic cigarettes, electronic nicotine
32 delivery systems, electronic cigars, electronic cigarillos,
33 electronic pipes, vape pens, or similar products or devices, as well
34 as any parts that can be used to build such products or devices.

1 "Vapor product" does not include any drug, device, or combination
2 product approved for sale by the United States food and drug
3 administration that is marketed and sold for such approved purpose.
4

5 **Sec. 3.** RCW 70.155.010 and 2009 c 278 s 1 are each amended to
6 read as follows:

7 The definitions set forth in RCW 82.24.010 shall apply to this
8 chapter. In addition, for the purposes of this chapter, unless
9 otherwise required by the context:

10 (1) "Board" means the Washington state liquor control board.

11 (2) "Internet" means any computer network, telephonic network,
12 or other electronic network.

13 (~~(3) ("Minor" refers to an individual who is less than eighteen~~
14 ~~years old.~~

15 ~~(4))~~ (4) "Sample" means a tobacco product distributed to members of
16 the general public at no cost or at nominal cost for product
17 promotion purposes.

18 ~~((5))~~ (5) "Sampling" means the distribution of samples to
19 members of the public.

20 ~~((6))~~ (6) "Tobacco product" means a product that contains
21 tobacco and is intended for human use, including any product defined
22 in RCW 82.24.010(2) or 82.26.010(~~((1))~~) (21), except that for the
23 purposes of RCW 70.155.140 only, "tobacco product" does not include
24 cigars defined in RCW 82.26.010 as to which one thousand units weigh
25 more than three pounds.

26 (6) "Vapor product" means any: (a) Device that employs a battery
27 or other mechanism to heat a solution or substance to produce a
28 vapor or aerosol intended for inhalation; (b) cartridge or container
29 of a solution or substance intended to be used with or in such a
30 device; or (c) solution or substance intended for use in such a
31 device, including, but not limited to, concentrated nicotine. "Vapor
32 product" includes any electronic cigarettes, electronic nicotine
33 delivery systems, electronic cigars, electronic cigarillos,
34 electronic pipes, vape pens, or similar products or devices, as well

1 as any parts that can be used to build such products or devices.
2 "Vapor product" does not include any drug, device, or combination
3 product approved for sale by the United States food and drug
4 administration that is marketed and sold for such approved purpose.

5
6 **Sec. 4.** RCW 70.155.020 and 1993 c 507 s 3 are each amended to
7 read as follows:

8 A person who holds a license issued under RCW 82.24.520 or
9 82.24.530 shall:

10 (1) Display the license or a copy in a prominent location at the
11 outlet for which the license is issued; and

12 (2) Display a sign concerning the prohibition of tobacco sales
13 to ~~((minors))~~ persons under the age of nineteen.

14 Such sign shall:

15 (a) Be posted so that it is clearly visible to anyone purchasing
16 tobacco products from the licensee;

17 (b) Be designed and produced by the department of health to
18 read: "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER AGE ~~((18))~~ 19
19 IS STRICTLY PROHIBITED BY STATE LAW. IF YOU ARE UNDER ~~((18))~~ 19, YOU
20 COULD BE PENALIZED FOR PURCHASING A TOBACCO PRODUCT; PHOTO ID
21 REQUIRED"; and

22 (c) Be provided free of charge by the liquor control board.

23
24 **Sec. 5.** RCW 70.155.030 and 1994 c 202 s 1 are each amended to
25 read as follows:

26 (1) No person shall sell or permit to be sold any tobacco
27 product through any device that mechanically dispenses tobacco
28 products unless the device is located fully within premises from
29 which ~~((minors))~~ persons under the age of nineteen are prohibited or
30 in industrial worksites where ~~((minors))~~ persons under the age of
31 nineteen are not employed and not less than ten feet from all
32 entrance or exit ways to and from each premise.

33 (2) The board shall adopt rules that allow an exception to the
34 requirement that a device be located not less than ten feet from all

1 entrance or exit ways to and from a premise if it is architecturally
2 impractical for the device to be located not less than ten feet from
3 all entrance and exit ways.

4

5 **Sec. 6.** RCW 70.155.080 and 2002 c 175 s 47 are each amended to
6 read as follows:

7 (1) A person under the age of (~~eighteen~~) nineteen who
8 purchases or attempts to purchase, possesses, or obtains or attempts
9 to obtain cigarettes (~~(or)~~), tobacco products, or vapor products
10 commits a class 3 civil infraction under chapter 7.80 RCW and is
11 subject to a fine as set out in chapter 7.80 RCW or participation in
12 up to four hours of community restitution, or both. The court may
13 also require participation in a (~~smoking~~) cessation program. This
14 provision does not apply if a person under the age of eighteen, with
15 parental authorization, or a person who is eighteen years of age is
16 participating in a controlled purchase as part of a liquor control
17 board, law enforcement, or local health department activity.

18 (2) Municipal and district courts within the state have
19 jurisdiction for enforcement of this section.

20

21 **Sec. 7.** RCW 70.155.110 and 1993 c 507 s 12 are each amended to
22 read as follows:

23 (1) The liquor control board shall, in addition to the board's
24 other powers and authorities, have the authority to enforce the
25 provisions of this chapter and RCW 26.28.080(~~(+4)~~) and 82.24.500.
26 The liquor control board shall have full power to revoke or suspend
27 the license of any retailer or wholesaler in accordance with the
28 provisions of RCW 70.155.100.

29 (2) The liquor control board and the board's authorized agents
30 or employees shall have full power and authority to enter any place
31 of business where tobacco products are sold for the purpose of
32 enforcing the provisions of this chapter.

33 (3) For the purpose of enforcing the provisions of this chapter
34 and RCW 26.28.080(~~(+4)~~) and 82.24.500, a peace officer or

1 enforcement officer of the liquor control board who has reasonable
2 grounds to believe a person observed by the officer purchasing,
3 attempting to purchase, or in possession of tobacco products is
4 under the age of (~~eighteen~~) nineteen years of age, may detain
5 (~~such~~) the person for a reasonable period of time and in such a
6 reasonable manner as is necessary to determine the person's true
7 identity and date of birth. Further, tobacco products possessed by
8 persons under the age of (~~eighteen~~) nineteen years of age are
9 considered contraband and may be seized by a peace officer or
10 enforcement officer of the liquor control board.

11 (4) The liquor control board may work with local county health
12 departments or districts and local law enforcement agencies to
13 conduct random, unannounced, inspections to assure compliance.
14

15 **Sec. 8.** RCW 70.155.120 and 1993 c 507 s 13 are each amended to
16 read as follows:

17 (1) The youth tobacco prevention account is created in the state
18 treasury. All fees collected pursuant to RCW 82.24.520 and 82.24.530
19 and funds collected by the liquor control board from the imposition
20 of monetary penalties and samplers' fees shall be deposited into
21 this account, except that ten percent of all such fees and penalties
22 shall be deposited in the state general fund.

23 (2) Moneys appropriated from the youth tobacco prevention
24 account to the department of health shall be used by the department
25 of health for implementation of this chapter, including collection
26 and reporting of data regarding enforcement and the extent to which
27 access to tobacco products by youth has been reduced.

28 (3) The department of health shall enter into interagency
29 agreements with the liquor control board to pay the costs incurred,
30 up to thirty percent of available funds, in carrying out its
31 enforcement responsibilities under this chapter. Such agreements
32 shall set forth standards of enforcement, consistent with the
33 funding available, so as to reduce the extent to which tobacco
34 products are available to individuals under the age of (~~eighteen~~)

1 nineteen. The agreements shall also set forth requirements for data
2 reporting by the liquor control board regarding its enforcement
3 activities.

4 (4) The department of health and the department of revenue shall
5 enter into an interagency agreement for payment of the cost of
6 administering the tobacco retailer licensing system and for the
7 provision of quarterly documentation of tobacco wholesaler,
8 retailer, and vending machine names and locations.

9 (5) The department of health shall, within up to seventy percent
10 of available funds, provide grants to local health departments or
11 other local community agencies to develop and implement coordinated
12 tobacco intervention strategies to prevent and reduce tobacco use by
13 youth.

14
15 NEW SECTION. **Sec. 9.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected."

19
20 Correct the title.

21

EFFECT: Removes the delayed effective date of July 1, 2019.
Requires that retailers post a sign concerning the prohibition on
sales of tobacco products to persons under the age of 19, rather
than 21. Modifies the findings to remove reference to age 19 with
respect to statistics on tobacco use. Permits a person who is 18
years of age to participate in a controlled purchase, rather than a
person who is at least 18 but under 19. Makes a grammatical change
in the section relating to detention of a person under the age of 19
by a Liquor Control Board officer.

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